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9 GEMINI INSURANCE COMPANY

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UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SIERRA BAY CONTRACTORS, INC.,

Plaintiff,

v.

WESTCHESTER SURPLUS LINES INSURANCE
COMPANY, *et al.*,

Defendants.

AND RELATED THIRD-PARTY CLAIMS

Case No. 3:10-CV-04611-RS

**STIPULATION AND
[PROPOSED] ORDER FOR
DISMISSAL OF THIRD-PARTY
DEFENDANT GEMINI
INSURANCE COMPANY**

Pursuant to F.R.C.P. 41, Third-Party Defendant Gemini Insurance Company
("Gemini") and Third-Party Claimant Westchester Surplus Lines Insurance Company
("Westchester") have agreed and hereby stipulate to the dismissal of Gemini from this
action, without prejudice, subject to said parties' mutual waiver of costs. Said parties
request the Court's approval and execution of the below proposed order for dismissal.

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1 **IT IS SO STIPULATED.**

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3 Dated: July 18, 2011

By: A. K. Thomas

4 Amy K. Thomas
5 WOLKIN CURRAN, LLP

6 Counsel for Third-Party Defendant
7 GEMINI INSURANCE COMPANY

8
9 Dated: July 26, 2011

By: David A. Astengo

10 David A. Astengo
11 MORALES FIERRO & REEVES, LLP

12 Counsel for Third-Party Claimant
13 WESTCHESTER SURPLUS LINES
14 INSURANCE COMPANY

15 **~~PROPOSED~~ ORDER OF PARTIAL DISMISSAL**

16 Having reviewed the above stipulation, the Court orders that Third-Party Claimant
17 Westchester Surplus Lines Insurance Company's claims against Third-Party Defendant
18 Gemini Insurance Company be dismissed, without prejudice. The remainder of the third-
19 party complaint shall not be changed or impacted by this Order.

20 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

21
22 Dated: 7/29/11

23 Richard S. Seaberg

24 United States District Court

25 District of Northern California